

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SMITHKLINE BEECHAM CORPORATION, et al.,	:	CIVIL ACTION
	:	
v.	:	
	:	
APOTEX CORPORATION, et al.	:	NO. 99-4304

MEMORANDUM AND ORDER RE: PAXIL CR PROMOTIONAL MATERIALS

This issue has been pending for some time. In the Court's Order of August 27, 2009 (Doc. No. 345), the Court required counsel to discuss Apotex's Motion to Compel Production of Documents and Information Regarding GSK's Preparation, Review and Dissemination of Paxil CR Promotion Materials (Doc. No. 341).

This Motion was also discussed on a telephone conference call on October 30, 2009. The matter was left unresolved at the conclusion of that telephone conference, but exchange of correspondence continued with letters to the Court dated November 25, December 7 and December 11, 2009. GSK has made certain proposed stipulations which Apotex refers to as a "negative stipulation."

The Court will order GSK to give Apotex an answer, in writing, which may be by letter from counsel authorized by the client, to the following question: "Did GSK distribute promotional materials that were not submitted to the FDA?" GSK will answer this question by stating yes, no, or it does not know. If GSK does not know, it will state why it does not know. If the answer is yes, GSK will either state it has already produced all such documents it can locate after a reasonable investigation, or a specific date by which it will produce additional documents.

GSK's letter shall be served on Apotex forthwith.

Apotex shall prepare a fact statement on this issue, including the stipulations, to be used in any future motions and/or at trial, which shall be submitted to GSK for comments and will be considered for approval by the Court at the hearing on December 21, 2009.

It is further ordered that Apotex's Motion (Doc. No. 341) is GRANTED in part and DENIED in part.

BY THE COURT:

s/Michael M. Baylson

Date: 12/15/09

Michael M. Baylson, U.S.D.J.

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